



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,367	10/30/2001	Barbara A. Brewitt	20371.0004c4	3277

7590 03/26/2004

Ann W. Speckman
SPECKMAN LAW GROUP
Suite 100
1501 Western Avenue
Seattle, WA 98101

EXAMINER

SEHARASEYON, JEGATHEESAN

ART UNIT	PAPER NUMBER
----------	--------------

1647

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/001,367

Applicant(s)

BREWITT, BARBARA A.

Examiner

Jegatheesan Seharaseyon

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-15 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

(A) The homeopathic preparation of purified protein is selected from the group consisting of insulin-like growth factor-1 (IGF-1); Fibrinogen B; glycoprotein 130 (GP130); signal transducer and activator of transcription 3 (STAT3); mitogen activated protein kinase p38 (p38MAPK); growth arrest and DNA damage inducible protein 45 (GADD45); apurinic endonuclease (APEN); membrane-type 1 matrix metalloproteinase-transmembrane protein (MT1-MMP); monocarboxylate transporter 1 (MCT1); fatty acid binding protein (FABP); epidermal growth factor receptor (EGF-R) and transforming growth factor-alpha receptor (TGF-alpha-R); insulin-like growth factor binding proteins 1 and 3 (IGFBP-1 and IGFBP-3); acid labile subunit of the IGF binding complex (ALS); suppressors of cytokine signaling (SOCS); transcription factors c-fos, c-jun, interferon response factor (IRF)-1; hepatocyte nuclear factor-6 (HNF-6); a cyclin, including A or A-type cyclin, a B or B-type cyclin, a C or C-type cyclin, a D or D-type cyclin, or an E or E-type cyclin; granulocyte macrophage-colony stimulating factors (GM-CSF), granulocyte colony stimulating factors (G-CSF), macrophage-colony stimulating factors (M-CSF), tumor necrosis factors (such as TNF-.alpha.), hepatocyte growth factors, insulin-like growth factors (IGF), transforming growth factors (such as TGF.sub..beta.1), nerve growth factors (NGF), epidermal growth factor receptors, stem cell factors (SCF), platelet-derived growth factors (PDGF), fibroblast growth factors (FGF), including FGF1 and FGF2, interleukin-1, interleukin-2, keratinocyte growth factors, ciliary neurotrophic

Art Unit: 1647

growth factors, Schwann cell-derived growth factors, vaccinia virus growth factors, retinoic acid, bombyxin, neu differentiation factor, v-Sis, glial growth factor/acetylcholine receptor-inducing activity and other proteins belonging to their structural superfamilies;

(B) In addition, composition as recited in claim 1 additionally comprises at least one component selected from the group consisting of: a vitamin, a mineral, an amino acid, carnitine, CoQ10, vitamin K, vitamin E, Ginko Biloba, Phosphadityl Serine, an Omega 3 oil, flax seed, fish oil, polyamines, alpha hydroxy, glycolytic acid, and DHA

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species from both A and B for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 3-15 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

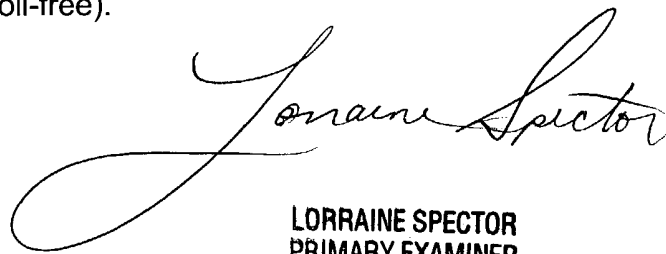
Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jegatheesan Seharaseyon whose telephone number is 571-272-0892. The examiner can normally be reached on M-F: 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz can be reached on 571-272-0887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS



**LORRAINE SPECTOR
PRIMARY EXAMINER**